

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE:	§	CASE NO.:	03-10383
	§	CHAPTER	12
ROBERT L. HERRON and	§		
DONNA L. HERRON d/b/a	§		
Piney Hill Dairy,	§		
	§	<u>NOTICE</u>	
Debtors.	§		
	§		

TAKE NOTICE that the undersigned counsel for the Creditor making the Objection attached will call on the attached Objection for a hearing at 9:30 o'clock a.m. on the 20th day of August, 2003, in the United States Bankruptcy Court in Asheville, North Carolina at 100 Otis Street, the same to be held as soon thereafter as the Court will hear the same.

THIS, the 7th day of August, 2003.

VAN WINKLE, BUCK, WALL, STARNES
AND DAVIS, P.A.

BY: _____

Mark A. Pinkston
NC State Bar No. 16789
Attorney for Deal-Rite Feeds, Inc.
11 North Market Street
P.O. Box 7376
Asheville, NC 28802
Telephone (828) 258-2991
Facsimile (828) 257-2767

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE:	§	CASE NO.: 03-10383
	§	CHAPTER 12
ROBERT L. HERRON and	§	
DONNA L. HERRON d/b/a	§	<u>OBJECTION TO CONFIRMATION</u>
Piney Hill Dairy,	§	
	§	
Debtors.	§	
	§	

NOW COMES Deal-Rite Feeds, Inc. by and through its undersigned counsel and objects to confirmation of the Debtors' Chapter 12 plan and shows the Court as follows:

1. Deal-Rite Feeds, Inc. is a duly scheduled creditor pursuant to its Proof of Claim filed in this matter.
2. The Chapter 12 petition reflected a total combined monthly income of \$8,357.41. The Debtors' proposed Chapter 12 plan reflects a combined gross monthly income of \$5,100.00.
3. The Debtors' petition reflected regular monthly expenses of \$12,484.77. The Debtors now contend that monthly expenses are \$5,110.60 which is more than the Debtors combined income and significantly less than the Debtors' Chapter 12 petition.
4. The Debtors' plan originally valued their real property at \$500,000.00. Now, the plan values the land at \$450,000.00. This is a significant reduction in value to unsecured creditors.
5. The Debtors do not have sufficient income in order to pay their proposed plan. The plan is not feasible.
6. The plan may propose payments to unsecured creditors in excess of the time period allowed in 11 U.S.C. § 1222(c).
7. The retention of the Trustee of 5% for fees and 5% for costs is not clear particularly in relationship with the Class 1 claim of the Chapter 12 Trustee.
8. This creditor objects to the plan providing for all claims to be objected to until the plan is substantially consummated.
9. The default period is too long.

10. Part V paragraph F is not clear particularly in relationship with paragraph H of Part V and in relationship to the proposed treatment of judgment liens in classes 4, 5, 6, 7, 8 and 9.
11. The Debtors were unable to pay their attorney, at the beginning of this proceeding, and the attorney received, from this Court, an Order allowing a lien up to \$10,000.00 in Debtors assets. This is an indication, supported by the Debtors current income and expenses, that the Debtors cannot pay this plan and the plan should be a liquidation only or converted to a Chapter 7 proceeding.

THIS, the 7th day of August, 2003.

VAN WINKLE, BUCK, WALL, STARNES
AND DAVIS, P.A.

By: _____

Mark A. Pinkston
State Bar No. 16789
Attorney for Deal-Rite Feeds, Inc.
Post Office Box 7376
Asheville, NC 28802
(828) 258-2991 (Telephone)
(828) 257-2767 (FAX)

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing Notice of Appearance in the above-entitled action upon all other parties to this cause via electronic filing by the United States Bankruptcy Court or by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed as follows:

David G. Gray
Westall, Gray, Connolly, and Davis P.A.
81 Central Avenue
Asheville, NC 28801

Marc Rudow
Roberts & Stevens, PA
Post Office Box 7647
Asheville, NC 28801

THIS, the 7th day of August, 2003.

Mark A. Pinkston